

**STATE OF ILLINOIS  
HUMAN RIGHTS COMMISSION**

CHARGE NO(S): 2006CF1834  
EEOC NO(S): N/A  
ALS NO(S): 07-945

**NOTICE**

You are hereby notified that the Illinois Human Rights Commission has not received timely exceptions to the Recommended Order and Decision in the above named case. Accordingly, pursuant to Section 8A-103(A) and/or 8B-103(A) of the Illinois Human Rights Act and Section 5300.910 of the Commission's Procedural Rules, that Recommended Order and Decision has now become the Order and Decision of the Commission.

Entered this 9<sup>th</sup> day of February 2010

N. KEITH CHAMBERS  
EXECUTIVE DIRECTOR

**IN THE MATTER OF:**

**MELVIN MURRY,**

**Complainant,**

**and**

**BORG WARNER TRANSMISSION  
SERVICE, INC.,**

**Respondent.**

**Charge No.: 2006CF1834**

**EEOC No.: N/A**

**ALS No.:** 07-945

**Judge Gertrude L. McCarthy**

### RECOMMENDED ORDER AND DECISION

On December 27, 2007, Complainant filed a *Complaint of Civil Rights Violation* on his own behalf, attaching a copy of the *Charge of Discrimination* filed on January 18, 2006 with the Illinois Department of Human Rights (Department). The complaint alleged handicap discrimination in violation of the Illinois Human Rights Act (Act).

The Department is an additional statutory agency that has issued state actions in this matter. The Department is therefore named as an additional party of record.

## FINDINGS OF FACT

The following facts were derived from the record file in this matter:

1. On December 27, 2007, Complainant filed a *Complaint of Civil Rights Violation* alleging handicap discrimination in violation of the Act.
2. On January 16, 2008 a certified mailing was sent by the Commission to Complainant at the address of record, 7958 Champlain, Chicago, IL, 60619, notifying him of a *Notice of Public Hearing* scheduled for March 12, 2008.
3. The Commission received proof of receipt by Complainant of the January 16, 2007 mailing.

4. On March 12, 2008, an attorney by the name of John Lynch appeared at the request of Complainant pursuant to the *Notice of Public Hearing* but failed to file his appearance.

5. Complainant appeared for status on May 18, 2008.

6. Complainant failed to appear for status on July 9, 2008, August 28, 2008 , October 15, 2008 and December 10, 2008.

7. On December 22, 2008, Respondent filed its *Motion to Dismiss for Failure to Prosecute*.

8. Complainant did not respond to the pending motion.

9. Complainant also failed to appear for a status date of February 11, 2009.

#### CONCLUSIONS OF LAW

1. Complainant's failure to prosecute his case has unreasonably delayed the proceedings in this matter.

2. As a result of Complainant's failure to prosecute his case, this matter should be dismissed.

#### DISCUSSION

On March 12, 2008, an attorney by the name of John Lynch appeared pursuant to a *Notice of Public Hearing*. Attorney Lynch did not file his appearance on behalf of Complainant.

On May 14 2008, Complainant appeared for status.

Complainant failed to appear for status on July 9, 2008, August 28, 2008, October 15, 2008, December 10, 2008 and February 11, 2009.

Respondent filed with the Commission *Certificates of Service* showing notice to Complainant at his address of record of the orders of July 9, 2008, August 28, 2008, October 15, 2008, December 10, 2008 and February 11, 2009.

On December 22, 2008 Respondent filed the pending motion.

Complainant has not filed a response to the pending motion.

Complainant has done nothing to ensure that his complaint is heard.

Complainant's actions, therefore, have unreasonably delayed the proceedings in this matter.

It is a fundamental principle governing practice before the Commission that it is the singular responsibility of complainants to diligently pursue the disposition of their case once they are docketed with the Commission. See *Johnson and Valley Green Management Co.*, IHRC, 11469, July 25, 2002.

The Commission routinely dismisses abandoned claims. See *e.g. Leonard and Solid Matter, Inc.*, IHRC, 4942, August 25, 1992. Additionally, the Commission has dismissed cases where Complainant has failed to appear before the Commission on dates scheduled for hearing or status. See, *e.g. Stewart and SBC Midwest*, IHRC, 04-227, March 22, 2006, and *Jackson and Chicago Firefighters Union Local No. 2*, IHRC, 8193, September 29, 1997. In light of those precedents, this case should be dismissed.

#### RECOMMENDATION

Based upon the foregoing, it is recommended that the complaint in this matter be dismissed in its entirety, with prejudice.

HUMAN RIGHTS COMMISSION

BY: \_\_\_\_\_

GERTRUDE L. MCCARTHY  
ADMINISTRATIVE LAW JUDGE  
ADMINISTRATIVE LAW SECTION

ENTERED: February 19, 2009